Amdt. dated December 9, 2003
Reply to Office action of 09/09/2003

Serial No. 09/670,736
Docket No. POU920000103US1
Firm No. 0066.0080

REMARKS/ARGUMENTS

The Examiner has rejected claims 1, 2, 4, 5, 9, 10, 12, 13, 17, 18, 20 and 21 under 35 U.S.C. 102(e) as being unpatentable over Kelley (US 6,542,469). The Examiner has also rejected claims 3, 11, and 19 under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Stripe (U.S. 5,805,578). The Examiner has also rejected claims 6, 14, and 22 under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Spagnolo (US 6,526,024). The Examiner has further rejected claims 7, 15, and 23 under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Burton (US 6,393,535). The Examiner has allowed claims 8, 16, and 24 and indicated that claims 25-27 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants traverse the claim rejections.

Claim Rejections under 35 U.S.C. 102(e)

Claims 1, 9, and 17

Claims 1, 9, and 17 are a method, system, and article of manufacture for selecting one of multiple proposed paths to a device, comprising:

for each proposed path, determining a number of components the proposed path shares with existing paths to the device, wherein the components comprise points of failure such that if one component fails then the paths including the component fails; and

using the determined number of shared components for each proposed path to select one proposed path.

The Examiner has rejected claims 1, 9, and 17 under 35 U.S.C. 102(e) as being unpatentable over Kelley. Applicants traverse.

The cited Kelley (column 2: lines 52-65) discusses determining at least two maximally disjoint paths to each selected destination in a communications network, where maximally

disjoint paths are paths where the number of links or nodes common to the two paths is
minimized.

     Nowhere does the cited Kelley teach or disclose the claim requirement that the
components comprise points of failure such that if one component fails then the paths including
the component fails. The claims require determining a number of components a proposed path
shares with existing paths to the device, wherein the components comprise points of failure such
that if one component fails then the paths including the component fails. The cited Kelly
discusses the selection of disjoint paths where the number of links or nodes common to the two
paths is minimized. However, the cited Kelley does not teach or disclose that the links or nodes
of the cited Kelley are the points of failure of the claim requirements..

     Additionally, nowhere does the cited Shank teach or disclose the claim requirements of
using the determined number of shared components for each proposed path to select one
proposed path, wherein the components comprise points of failure. Instead, the cited Kelley
discusses determining at least two maximally disjoint paths. The cited Kelley teaches away from
the claim requirements because the cited Kelly discusses determining at least two paths that are
maximally disjoint, whereas the claims require selecting one of multiple proposed paths to a
device, where the one path is selected using the determined number of shared components for
each proposed path.

     For the above reasons, claims 1, 9, and 17 are patentable over the cited art.

Claims 2-7, 10-15, 18-24

     The Examiner has also rejected pending claims 2-7, 10-15, 18-24 that depend on the
pending independent claims 1, 9, and 17 respectively that the applicants submit as patentable.
Accordingly claims 2-7, 10-15, 18-24 provide additional grounds of patentability over the cited
art.

Claims 4, 12, 20

Claims 4, 12, 20 depend from claims 1, 9, and 17 respectively, wherein each path includes an adaptor in a computer and an interface port in the device, wherein determining the number of components the proposed path has in common with existing paths further comprises determining a number of components the adaptor in the proposed path shares with the adaptors of existing paths to the device and determining a number of components the proposed path shares with the interface ports of existing paths to the device.

The cited Kelley (col. 4: lines 20-26; col. 2: lines 52-65) discuss nodes and links in a network, where the nodes are switches or other processors for transferring data. Nowhere does the cited Kelly teach or disclose the claim requirement that each path includes an adaptor in a computer and an interface port in the device.

For the above reasons, claims 4, 12, 20 provide additional grounds of patentability over the cited art.

Claims 5, 13, 21

Claims 5, 13, 21 depend from claims 1, 9, and 17 respectively, wherein each path further includes a source port and destination port on a switch, wherein the adaptor for a path connects to the source port of the switch and wherein the interface port for the path connects to the destination port of the switch, wherein determining the number of components the proposed path has in common with existing paths further comprises determining components on the switch the proposed path has in common with existing paths.

The cited Kelley (col. 2: lines 52-65; col. 4: lines 20-26; and fig 1) discuss nodes and links, where the nodes may be switches or other processors. The cite Kelley further discusses determining maximally disjoint paths. Nowhere does the cited Kelly teach or disclose the claim requirement that each path further includes a source port and destination port on a switch, wherein the adaptor for a path connects to the source port of the switch and wherein the interface

port for the path connects to the destination port of the switch, wherein determining the number of components the proposed path has in common with existing paths further comprises determining components on the switch the proposed path has in common with existing paths.

For the above reasons, claims 5, 13, 21 provide additional grounds of patentability over the cited art.

Claim rejections under 35 U.S.C. 103(a)

Claims 3, 11, 19

Claims 3, 11, and 19 depend from claims 1, 9, and 17 respectively, wherein using the determined number of shared components to select one proposed path comprises selecting the proposed path having a greatest number of shared components with existing paths, wherein each proposed path comprises one existing path to the device, and wherein the selected proposed path is selected to be removed as one of the paths to the device.

The Examiner has rejected claims 3, 11, and 19 under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Stripe (US 5,805,578).

The cited Stripe (col. 6: line 21-24) discusses computing two sets of paths, where the first path includes the set of links on which resources need to be released and the second path includes the set of links in which resources need to be acquired. Nowhere does the cited Stripe teach or suggest the claim requirements of selecting the path having a greatest number of shared components with existing paths, wherein the selected path is selected to be removed as one of the paths to the device. The acquisition and release of resources in the cited Stripe is for reconfiguring a multipoint communications channel to reconnect selected nodes after failures occur in the network. The resources that are released in the cited Stripe are related to nodes. Therefore, the cited Stripe discusses releasing resources and does not teach or suggest the claim requirement of removing one of the paths to the device. The Examiner has acknowledged that the

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cited Kelly does not teach or suggest removing paths as required by the claims. Therefore, neither the cited Stripe nor the cited Kelly teach or suggest removing paths as required by the claims.

For the above reasons, claims 3, 11, 19 provide additional grounds of patentability over the cited art.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1-27 are patentable over the art of record. Applicants have not added in new claims in this response to the office action. However, should any additional fees be required, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact him at (310) 553-7977 if the Examiner believes such contact would advance the prosecution of the case.

Dated: December 9, 2003   By: _____

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